OP 8180/03
OA 1003/93

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL'S ACT 1985.

O.A.No. 1003 /1993. 3

For use in the Tribunal's office:- W.P. no. 7497/05

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	REGISTRAR

IN THE MADHYA PRADESH ADMINISTRATIVE TRIBUNAL: JABALPUR.

BETWEEN

1. APPLICANT:- Bhola Singh, aged about 43 years son of Shri Shobhnath Singh, Constable (Now Dismissed) No.330 Police Lines, Raipur (M.P.), resident of Simga, P.O. Simga, District Raipur (M.P.).

VERSUS

2. NON APPLICANTS:- 1. State of M.P. through Secretary Home Department M.P.Bhopal.
2. D.I.G.Raipur M.P.
3. Superintendent of Police Raipur M.P.

AFR

(73)

HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B. : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.749 OF 2005

Petitioner : Bhola Singh

versus

Respondents : State of M.P. and others

Present : Mr. R.K.Kesharwani, counsel for the petitioner.
Mr. I.N.Shrivastava, Panel Lawyer for the respondents/ State.

ORDER
(Passed on 22nd of August, 2006)

The petitioner was employed as Constable and posted at Police Station Kharora, District Raipur when the petitioner was served a charge-sheet by order dated 9-9-1991 (Annexure-3) containing following charges:-

"दोषारोप

1– दिनांक 4–6–91 को 3 दिन के आकस्मिक अवकाश पर रवाना होने के पश्चात दिनांक 29–6–91 तक अनाधिकृतरूप से अवकाश प्रसार करते हुए कर्तव्य से अनुपस्थित रहकर घोर लापरवाही प्रदर्शित करना ।

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2– दिनांक 29–6–91 को 23x4 टाऊन गश्त ड्यूटी से अनुपस्थित होकर वर्दी की हालत में शराब के नशे में मदमस्त होकर खरोरा बस स्टैंड में पड़े रहना ।

3– दिनांक 30–6–91 को प्रातः गणना से एवं रात्रि में थाना हाजिरी ड्यूटी से अनुपस्थित रहकर शराब पिये हालत में खरोरा बस स्टैंड में घूमते रहना ।

4– शराब पीने, अनाधिकृतरूप से गैरहाजिर रहने एवं अवकाश प्रसार करने का आदी होना व दंडित किए जाने के उपरांत भी अपने आचरण में सुधार न लाना ।"

2. A departmental enquiry was initiated against the petitioner after having served list of witnesses, list of documents and memorandum of charges. The petitioner submitted his reply denying all the charges on 17-9-1991 (Annexure-4) enclosing two medical certificates, one issued by private practitioner and other issued by Assistant Surgeon, Civil Dispensary, Kharora, on an ordinary piece of paper. The enquiry officer – Sub-Divisional Officer (Police), Simga, after having examined the case, submitted enquiry report on 23-5-1992 (Annexure-8) holding charges No.1 and 4 as proved and charges No.2 and 3 as not proved.

3. The Superintendent of Police, Raipur, disagreeing with the enquiry report on charges No.2 and 3, issued a show cause notice to the petitioner on 26-5-1992 (Annexure-9). The petitioner submitted his reply to the said show cause notice vide Annexure-10.

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4. The disciplinary authority, having considered reply of the delinquent officer – the petitioner, held all the charges found proved against the petitioner and removed the petitioner from services by order dated 11-6-1992 (Annexure-1).

5. Being aggrieved, the petitioner filed statutory appeal before Deputy Inspector General of Police on 25-6-1992 (Annexure-11). The appellate authority, having agreed with the findings recorded by the enquiry officer and the disciplinary authority and the punishment imposed by the disciplinary authority, dismissed the appeal by order dated 11-12-1992 (Annexure-2).

6. The petitioner has filed this petition impugning the order dated 11-6-1992 (Annexure-1) passed by the disciplinary authority and order dated 11-12-1992 (Annexure-2) passed by the appellate authority on the grounds that the enquiry is perverse as there was no medical evidence against the petitioner so as to prove that the petitioner was found in drunken condition while performing his duties. Learned counsel for the petitioner submits that the petitioner was not afforded sufficient opportunity of hearing.

7. Learned counsel appearing for the respondents/State, on the contrary, supported the orders passed by the disciplinary authority as well as by the appellate authority.

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8. Having heard learned counsel for the parties and having gone through the record, it is evident that the contention of the petitioner, that the petitioner was not afforded opportunity of hearing, is without any basis and deserves to be rejected. With regard to the next contention that there was no medical evidence, which went to prove that the petitioner was inebriated in duty, the petitioner has not produced proper medical certificate but two medical certificates, one issued by private practitioner and other issued by Assistant Surgeon, Civil Dispensary, Kharora, on an ordinary piece of paper, which cannot be given any credence. It is clearly found on the basis of sufficient evidence that the petitioner was inebriated in duty and was found lying on the ground while he was in uniform. Thus, the contention, that there was no medical evidence to prove the inebriated condition of the petitioner, is frivolous. There is sufficient evidence as the enquiry was based on examination of several witnesses and relevant documents.

9. This is well settled principle of law, as held in **B.C. Chaturvedi vs. Union of India**[1], **State of U.P. and others vs. Ashok Kumar Singh and another**[2], **Union of India vs.**

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1 (1995) 6 SCC 749
2 (1996) 1 SCC 302

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G.Ganayutham[3], **Kuldeep Singh vs. Commissioner of Police and others**[4], **V.Ramana vs. A.P.S.R.T.C. and others**[5], **State of Rajasthan and another vs. Mohd. Ayub Naz**[6], **Syndicate Bank and others vs. Venkatesh Gururao Kurati**[7] that the scope of judicial review is limited to the deficiency in decision making process not the decision. In the present case, there is no rationality, illegality or procedural irregularity, which require interference in the findings of the enquiry officer and the decision of the disciplinary authority for imposition of punishment of removal from service.

10. The petitioner belonged to a disciplined force, i.e., police. The Supreme Court in the case of **State of U.P. and others vs. Ashok Kumar Singh and another** (Supra) has observed that a police constable, serving in disciplined force, which demands strict adherence to the rules and procedure more than any other department, in absenting himself from duty without permission, has committed grave misconduct.

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3 (1997) 7 SCC 463
4 (1999) 2 SCC 10
5 (2005) 7 SCC 338
6 (2006) 1 SCC 589
7 (2006) 3 SCC 150
8 2006 (2) C.G.L.J. 75

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11. The Supreme Court, in the case of **Commissioner of Police vs. Syed Hussain**[8] has observed that in view of the nature of duties that a protector of law is required to perform, it cannot be said that the disciplinary authority had committed any error imposing the punishment of removal from service upon the respondent, particularly when on several occasions he has been found guilty of misconduct. In the present case, there was not one incident but there were several incidents wherein the petitioner was found inebriated and remained absent from duties as contained in charge No.4.

12. For the reasons above-stated, there is no reason to interfere with the findings recorded and order passed by the disciplinary authority dated 11-6-1992 (Annexure-1) and confirmed by the appellate authority vide order dated 11-12-1992 (Annexure-2). Thus, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Gopal